

PART 5333--PROTESTS, DISPUTES, AND APPEALS

PART 5333--PROTESTS, DISPUTES, AND APPEALS

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SUBPART 5333.1--PROTESTS

5333.102 General. Air Force personnel should seek to resolve all protests at the lowest possible level regardless of the level at which the protest is initially lodged. When notified of a protest, the contracting activity shall immediately contact the protester to make sure the basis of the protest is fully understood; thoroughly consider its merits; and take appropriate action. Throughout the protest, frank and open discussions with the protester are encouraged. A candid explanation of the reasons for our contracting decisions and actions can frequently satisfy the protester's concerns and result in withdrawal of the protest. A decision to deny a protest shall be made at a level no lower than that at which the protest was lodged.

5333.103 Protests to the agency.

(a) Air Force personnel shall use the procedures of FA R Subpart 33.1 and this Supplement, and shall consider, where appropriate, the rules and prior decisions of the Comptroller General when deciding agency level protests, including those on nonappropriated funds procurements.

(b) The staff officer responsible for contracting at a major command may, with the concurrence of the cognizant staff judge advocate, deny protests lodged at or below the major command level. This authority may be redelegated to field activities. However, for protests that involve policy implications not fully covered by regulation or that have significant congressional interest, the major command shall request guidance from SAF/AQCX. Protests may be sustained at any level in the review process, with the concurrence of the cognizant staff judge advocate.

(c) The decision authority shall respond to the protester in writing, answering completely all protest allegations. For protests before award, the contracting activity shall not award a contract until the response is sent to the protester. For protests submitted above the major command level, SAF/AQCX will notify the contracting officer when the response is sent to the protester.

(d) When protests are lodged above the major command level, SAF/AQCX will normally request a protest file from the major command, prepared in accordance with 33.104(a)(2), modified appropriately. SAF/AQCX, in consultation with SAF/GCQ, shall prepare an Air Force position on the protest.

5333.104 Protests to GAO.**5333.104(a) General.**

5333.104(a)(1) Notice of GAO Protests. SAF/AQCX will notify the appropriate field activity and major command when a protest has been lodged with GAO. The contracting officer shall—

(i) immediately notify the local staff judge advocate and begin preparing the agency report;

(ii) give notice as required by FAR 33.104(a)(4) and include a copy of any responses received in the agency report. Provide a copy of the protest to the interested parties with the notice;

(iii) if the protest is not received from the protester within one day of receipt of the protest by GAO or if the GAO has previously rejected jurisdiction over the issues raised, immediately send a message that includes a statement of the relevant facts through the major command to SAF/AQCX. Preparation of an agency report may then be delayed pending instructions from SAF/AQCX; and

(iv) direct all status requests or questions on protests pending at GAO to SAF/AQCX. Contracting officers shall not contact the GAO directly.

5333.104(a)(2) Agency reports.**(i) Transmittal of agency reports.**

(A) The contracting activity shall transmit the agency report using Express Mail or overnight delivery so that SAF/AQCX will receive it not later than twelve work days after the contracting activity is notified of the protest. The major command shall submit its recommendations and comments, including those of major command staff judge advocate, so that they are received by SAF/AQCX not later than five work days after the contracting activity submits the agency report. If GAO uses the express option procedures, SAF/AQCX must receive the agency report within five work days from the date the express option is invoked, and must receive the major command comments and recommendations within two work days thereafter.

(B) The contracting officer shall forward the agency report, including all copies, to SAF/AQCX with a letter of transmittal, signed by the chief or deputy chief of the contracting activity, which shall—

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(1) identify the protester and the GAO assigned protest number in the subject;

(2) briefly describe the requirement and give the status of contract award. If award has been made, state if performance has commenced, shipment or delivery has been made, or a stop work order has been issued;

(3) identify the name and telephone number (DSN) of the appropriate contact in the contracting office; and

(4) state actions taken to resolve the protest and any further action contemplated.

(ii) Format of agency reports.

(A) The contracting officer shall prepare the agency report as a "stand alone" report that can be submitted "as is" to the GAO. The copies of the agency report for the protester and each interested party shall also be "stand alone" reports, ready to be submitted by SAF/AQCX or SAF/GCQ "as is" to each party.

(B) Organize agency reports as follows-

(1) Include true, legible and complete copies of the original documents in chronological order, earliest first, bound on the left margin, numbered, tabbed and indexed. The copy for the GAO shall be in loose leaf three ring binders;

(2) Number documents using whole arabic numerals (with no letters, decimals or fractions) and continuous from one binder to the next, so that the complete agency report will consist of one set of consecutively numbered documents.

(3) The table of contents should include the date and a brief description of each document and shall indicate which documents are being provided to the GAO, the protester and each interested party.

(C) Include the memorandum of law, the contracting officer's statement of facts, and the protest at Tabs 1, 2 and 3, respectively. Reference all other relevant documents in the memorandum of law or in the contracting officer's statement.

(iii) Copies of agency reports.

(A) The contracting officer shall provide to SAF/AQCX complete and separate copies of the agency report for transmittal to the GAO, the protester, and each

interested party which responded to the notice of protest (See AFFARS 5333.104(a)(4)). Label each copy with the identity and address of the appropriate party.

(B) The contracting officer shall provide a complete copy of the agency report to be submitted to the GAO, for retention by SAF/AQCX.

(C) Except as provided in (D) below, the contracting officer shall include, in the copies to be provided to the protester and interested parties, a complete copy of each document being provided to the GAO and a redacted copy of documents which may be partially withheld. Include the complete copy and the redacted copy under the same tab. If a protective order is not issued for the protest, SAF/AQCX or SAF/GCQ will remove the documents which are not to be released from the copies of the agency reports for the protester and interested parties.

(D) Documents in the agency report being provided to the GAO that are known to be in the possession of the protester or an interested party (e.g., the solicitation) need not be reproduced and included in the agency report for the protester or interested party. The table of contents for the agency report shall indicate which documents are not being provided because the party already has a copy.

(E) SAF/AQCX and SAF/GCQ addresses and telephone and FAX numbers are-

Department of the Air Force
Office of the Deputy Assistant
Secretary (Contracting)
Contract Support Division (SAF/AQCX)
1060 Air Force Pentagon
Washington D.C. 20330-1060
Telephone (703) 614-4877
FAX (703) 693-5589

Department of the Air Force
Office of the Assistant General Counsel
for Acquisition (SAF/GCQ)
1740 Air Force Pentagon
Washington, D.C. 20330-1740
Telephone (703) 697-3900
FAX (703) 614-8846

(iv) Contracting officer's statement of facts.

(A) The contracting officer's statement of facts shall include a chronology of events and a discussion of all issues raised in the protest. The chronology of events will include the date and a brief description of significant events in the procurement. The discussion of allegations

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shall address all issues raised in the protest. Conclusions shall be supported by appropriate references to the FAR and FAR Supplements and supporting documents (by tab number) in the agency report.

(B) The contracting officer's statements of facts should be written so that it contains only releasable information. If there is any information that must be withheld from the protester or an interested party, it should be provided in a supplemental statement. If deletions are minimal, a redacted statement for the appropriate parties may be provided instead. The contracting officer's statement of facts should include information such as the following--

- (1) Type solicitation protested (i.e., IFB, RFP, etc.);
- (2) Solicitation number and date issued;
- (3) Description of goods or services being acquired;
- (4) Name of contracting office;
- (5) Description of decision protested;
- (6) Date bids or proposals originally due;
- (7) Date best and final offer (BAFO) requested;
- (8) Date BAFO received;
- (9) Date of award;
- (10) Successful contractor, if known;
- (11) Amount of contract, as awarded and with options;
- (12) Amount protester bid for basic contract and options;
- (13) Specific language in solicitation to which exception is taken;
- (14) Abstract of relevant language from other documents referenced by protester or relied on by the Air Force;
- (15) Verbal communications, if any, alleged by the protester or relied on by the Air Force, emphasizing any disputed verbal statements; and
- (16) Other significant facts alleged by the protester or relied on by the Air Force with a particular emphasis on disputed facts.

(v) Memorandum of Law.

(A) The staff judge advocate shall provide a memorandum of law in opposition to the protest, to be included as an advocacy document in the agency report. The memorandum should be prepared in anticipation of its release to the GAO and to interested parties to the protest. Any information that must be withheld from the protester or an interested party, should be included in a supplemental memorandum for the GAO. If deletions are minimal, a redacted memorandum for the appropriate parties may be provided instead. The memorandum of law shall--

- (1) include the pertinent facts;
- (2) identify the legal issues raised by the protest;
- (3) set forth the legal rules enunciated by the GAO and the Courts when resolving the same or similar issues and analyze how those rules apply to the facts and issues of the protest; and
- (4) briefly set forth the desired result.

(B) The statement of facts in the memorandum of law should tell the GAO what the procurement is all about, and how the protest relates in time to the actions of the buying activity and the offerors, as well as explain the agency position. The memorandum of law should, for the most part, read like a GAO decision and contain the necessary citations to protest decisions.

(C) If there is a reasonable possibility that the GAO may sustain the protest, the staff judge advocate shall prepare a legal opinion containing a candid, objective assessment of the merits of the protest. This opinion and any other written advice or comments by the staff judge advocate to the contracting officer about the protest shall not be made a part of the agency report but shall be forwarded with the report to SAF/AQCX. These documents will not be provided to the GAO or released outside of the Air Force without the consent of the staff judge advocate or higher authority.

5333.104(a)(3) Document Requests.

(i) A protester may request, in writing, concurrent with the filing of the protest, specific documents relevant to the protest, including documents not normally required to be included in the agency report.

(ii) Copies of all documents requested by the protester must be furnished to the GAO. Relevant, responsive docu-

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ments should be integrated into the agency report. Irrelevant documents should be segregated, identified, and appended to the copy of the agency report to be provided to the GAO and SAF/AQCX.

(iii) The agency report shall clearly indicate whether there exist any documents responsive to a document request and, if so, which documents are responsive to which part of the request.

(iv) The protester may subsequently request additional documents if the existence or relevance of documents first becomes evident from the agency report, by filing a request with the GAO and the contracting agency within 2 work days of the receipt of the agency report. SAF/AQCX or SAF/GCQ must file the documents with the GAO within 5 work days, identifying any documents not furnished to the protester or interested party and stating the reasons for not furnishing them. These documents must be given to anyone granted access to them by a protective order. Therefore, the contracting officer shall provide all requested additional documents to SAF/AQCX within 3 work days of receipt of the protester's request.

5333.104(a)(4) Release of Information.(i) General.

(A) SAF/AQCX or SAF/GCQ submit agency reports to the GAO, the protester, and interested parties. Contracting activities shall not provide agency reports, or documents in agency reports, directly to the GAO, the protester, or interested parties, unless requested to do so by SAF/AQCX or SAF/GCQ. Contracting activities shall provide additional documents to SAF/AQCX or SAF/GCQ, upon request.

(B) Documents are not released or withheld pursuant to the authority of the Freedom of Information Act (FOIA). However, the exemptions in FOIA may be used as a basis for determining not to release documents or portions of documents. For documents in the agency report that may be non-releasable, in whole or in part, under the (FOIA), the contracting officer shall identify the specific parts of the documents that would be exempt under FOIA; the applicable FOIA exemptions; and explain why those parts should not be released.

(C) Within 5 work days of receipt of the agency report (or the Air Force's response to a protester's request for additional documents), the GAO must notify the Air Force whether any documents being withheld should be released to the protester or an interested party. If the GAO determines that withheld documents should be

released, it will furnish the documents to the protester or interested party or advise the Air Force to do so. If advised by the GAO to do so, SAF/AQCX or SAF/GCQ will release the documents or notify the GAO that it does not agree with the GAO determination.

(ii) Protective orders. If the GAO issues a protective order, SAF/GCQ will represent the Air Force in the protest.

(iii) Releasability Determinations.

(A) Entire documents should not be withheld from a protester or interested party unless all information within the document should be withheld (but see FAR 33.104(a)(2)(i)(C)).

(B) Information readily available to all offerors should not be withheld.

(C) Information which the government is not precluded by law from releasing (even though it may fall within one of the FOIA exemptions) should not be withheld if it would tend to explain the award decision or the adverse action taken with respect to the offeror's proposal.

(D) Commercial or financial information submitted in confidence to the government must be withheld from any protester or interested party, other than the one that submitted it.

(E) Government negotiation or evaluation information may be withheld from the protester or an interested party, if its release would harm the government in future acquisitions. For example,--

(1) Final ratings, strengths, weaknesses, risk evaluations, and final composite scores will generally not be withheld from the company whose proposal is being evaluated as they tend to explain the government's decision.

(2) Individual ratings, scores, analyses, worksheets, identities and interim ratings generally will be withheld as they tend not to be relevant or the release would be harmful to the deliberative process.

(3) Those portions of the Proposal Analysis Report that relate to a protester's evaluation should generally be provided to the protester.

(4) See Appendix AA, Section AA-403 for guidance concerning information related to a source selection.

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(iv) Document Release Memorandum.

(A) Documents that will not be furnished in their entirety to the protester or to an interested party in response to the protester's document request must be identified and the reason for not furnishing the documents stated in a memorandum.

(B) This memorandum shall be included in the agency report to explain the legal and factual basis for not furnishing to a protester or interested party any document, or portion of a document, which is being furnished to the GAO. The contracting officer prepare it with the assistance from the staff judge advocate.

5333.104(b) Protests before award.**(1) Authorization requests.**

(A) Requests to authorize award shall be signed by a general officer/senior executive service civilian, or if not available, by the installation commander or deputy and forwarded to the major command. If the major command concurs with the request, the major command staff officer responsible for contracting shall forward it to SAF/AQC through SAF/AQCX.

(B) All requests shall include facts that establish the urgent and compelling circumstances which significantly affect the interests of the United States. The request will include the proposed written finding required by FAR 33.104(b). Requests will be transmitted in a manner to ensure their receipt by SAF/AQCX at least 10 working days before the date contract award is required. The request will also include the following:

(i) A description of the goods or services requested and the type of contract contemplated;

(ii) A concise summary of the protest and the Air Force position thereon;

(iii) The required award date and the reasons award is required by that date;

(iv) A statement of the impact on the Air Force if award is delayed 30, 60, or 90 days beyond the required award date specified;

(v) A description of alternative methods for obtaining the required supplies or services (e.g., options, organic capabilities, purchase orders), including a detailed explanation of why such alternatives are not feasible;

(vi) An estimate of termination costs if the protest is sustained and the contract terminated 30, 60, or 90 days after award; and,

(vii) The name and telephone number of any point of contact at SAF or HQ USAF who knows the impact of delay in contract award.

(C) After reviewing a request to authorize award, SAF/AQC may request a briefing on technical and contractual aspects of the solicitation. The briefing shall be provided by representatives who can fully support and justify the request. Upon completion of the reviews and in consultation with SAF/GCQ, SAF/AQC will notify the major command whether the HCA may authorize award, if the contract is for other contracting (see 5302.101). If the contract is for a major, selected or other program (see 5302.101), requests to authorize award will be approved by SAF/AQ, as HCA.

(2) Notice to GAO.

(A) For other contracting. After receiving SAF/AQC approval to award notwithstanding a protest to the GAO, the contracting activity shall transmit the notice required by FAR 33.104(b)(1) (but not the finding itself) to the GAO before award is made. Forward the notice, including the protester's name and B-number assigned to the protest to:

The Office of the General Counsel
U.S. General Accounting Office
441 G Street N.W.
Washington, DC 20548
Attn: Procurement Law Control Group

The contracting office shall provide a copy of the notice to SAF/AQCX.

(B) For major, selected and other programs. SAF/AQCX will prepare and transmit the notice of the finding under FAR 33.104(b)(1).

5333.104(c) Protests after award.

(1) When the Air Force receives notice of a protest from the GAO within ten (10) calendar days after the date of contract award, the contracting officer shall decide whether to suspend performance, terminate the contract, or request authority to continue contract performance.

(2) Requests to continue contract performance shall be signed by a general officer/senior executive service civilian or, if not available, the installation commander or deputy

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and forwarded to the HCA for approval. A request for authority to continue contract performance shall include a written finding fully justifying the continued performance. Include the information required by 5333.104(b), as applicable, in all requests. For other contracting, the HCA, on a nondelegable basis, shall decide within five (5) working days after being notified of the protest by SAF/AQCX whether to authorize continued contract performance, notwithstanding the protest. In these cases, if the contracting officer does not request continued contract performance, or if the HCA does not authorize continued contract performance within five (5) days, the contracting officer must immediately suspend contract performance. If circumstances change after suspension of performance, the contracting officer may subsequently initiate action to authorize contract performance notwithstanding the protest.

(3) When authorizing continued contract performance, the HCA must first send a notice to the GAO of the finding (but not necessarily the finding itself), then sign and return the finding to the contracting officer. Forward the notice to the GAO and a copy to SAF/AQCX.

5333.104(d) Reserved.

5333.104(e) Hearings.

(1) SAF/GCQ will represent the Air Force on any protest involving a hearing. When appropriate, the local staff judge advocate who prepared the memorandum of law will assist SAF/GCQ at the hearing.

(2) The contracting activity, local staff judge advocate, and responsible major command shall provide the requested witnesses and other support required by SAF/GCQ. SAF/GCQ will submit Air Force comments on the hearing to GAO. The contracting officer shall produce additional information, as necessary, for SAF/GCQ to provide comments.

5333.104(f) Reserved.

5333.104(g) Notice to GAO. For other contracting, the HCA shall advise SAF/AQCX in writing with any recommendation not to comply with a GAO decision within 30 days of the date of the decision.

5333.105 Protests to GSBICA.

(a) General.

(1)(i) The Office of the Assistant General Counsel for Acquisition (SAF/GCQ) will represent the Air Force on all protests filed with the GSBICA (Board). The contracting officer and the cognizant staff judge advocate shall

provide direct support to SAF/GCQ on all matters before the GSBICA. Cases before the GSBICA will be decided based upon evidence presented at a hearing or a submission on the record. Hearings will be held at the time and place ordered by the Board and will be scheduled at the discretion of the Board, unless all parties elect to submit the matter on the record.

(ii) Upon receipt of a protest to the GSBICA the contracting officer shall immediately, by the most expeditious means available, provide a copy of the protest to the local staff judge advocate, SAF/AQCX, HQ USAF/SC, and SAF/GCQ. At the same time, the contracting officer shall notify SAF/GCQ by telephone of the name and telephone number of the staff judge advocate that will assist the contracting officer with the protest.

(iii) SAF/GCQ may be contacted as follows:

Telephone

Commercial (703) 697-3900 or (703) 697-7693
DSN 8-227-3900 or 8-224-5205

Facsimile

Commercial (703) 614-8846
DSN 8-224-8846

Mail Delivery

SAF/GCQ
1740 Air Force Pentagon
Washington, D.C. 20330-1740

PRIORITY: GSBICA PROTEST
ATTN: ASSISTANT GENERAL COUNSEL
RM 4D1000/EXT 73900
(prominently displayed in capital letters in the lower left corner)

(2) The contracting officer shall forward a copy of the written confirmation and listing of those notified to SAF/GCQ at the same time that it is provided to the Board.

(b) Protest file. The contracting officer shall obtain the assistance of the staff judge advocate in preparing the protest file. No documents should be created for the file. Any affidavits or statements of witnesses deemed necessary on the matter under protest shall be prepared in consultation with SAF/GCQ.

(1) The file shall be organized in accordance with the GSBICA rules, as follows: Protest file exhibits may be originals or true, legible, and complete copies. They shall be arranged in chronological order within each submission.

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sion, earliest documents first, bound on the left margin except where size or shape makes such binding impracticable, numbered, tabbed, and indexed. The numbering shall be consecutive, in whole arabic numerals (no letters, decimals, or fractions), and continuous from one submission to the next, so that the complete file, after all submissions, will consist of one set of consecutively numbered exhibits. The index should include the date and a brief description of each exhibit and shall indicate which exhibits, if any, have been filed with the Board in camera or otherwise not served on every other party.

(2) After obtaining staff judge advocate review of the file, the contracting officer shall provide to SAF/GCQ three copies of the file as well as any additional copies requested by SAF/GCQ. The contracting officer shall not provide the file directly to the Board, unless directed to do so by SAF/GCQ. Unless otherwise directed by SAF/GCQ, the copies shall be transmitted in a manner to ensure their receipt within seven working days from the date the protest is filed.

(c) Answer to protest. The contracting officer, with the assistance of the staff judge advocate, shall provide to SAF/GCQ, to arrive at the same time as the copy of the protest file, information sufficient to draft an answer and any other appropriate pleadings. Information sufficient to file an answer must be provided, even though other pleadings are deemed appropriate. All dispositive motions must be filed at the time the answer is filed. These would include motions to dismiss for failure to state a valid basis for protest, for untimeliness, and for lack of jurisdiction. Information submitted in support of a motion should include a memorandum of law prepared by the staff judge advocate. SAF/GCQ will file the answer and other appropriate pleadings with the Board.

(d) Suspension hearing. When notified that a suspension hearing has been requested, the contracting officer shall identify and notify SAF/GCQ of appropriate officials who would be available to testify at the hearing or provide affidavits if the matter is to be submitted on the record for a decision without a hearing. Testimony or affidavits concerning "urgent and compelling circumstances which significantly affect interests of the United States" may be made by an official no lower than a general officer of the requiring activity or, if a general officer is not available, the installation commander or deputy.

(e) Hearing on the merits. The contracting officer shall identify and notify SAF/GCQ of appropriate officials who would be available to testify at the hearing, when scheduled, or provide affidavits if the matter is to be submitted on the record for a decision without a hearing. Decisions to award before a resolu-

tion on the merits, unless precluded by a GSA suspension of authority, shall be approved in accordance with 5333.104(b)(2) except that they shall also be supported by an affidavit showing "urgent and compelling reasons" as required in 5333.105(d) above. Any decision to suspend performance after award shall be made in consultation with SAF/GCQ.

(f) Costs. The contracting officer will be advised by SAF/GCQ how any award of costs will be satisfied.

5333.105-90 GSBCA address. The written confirmation and listing required by 5333.105(a)(2) and the appeal file required by 5333.105(b)(2) shall be sent to the Board at:

Board of Contract Appeals
General Services Administration
Room 7022, 18th & F Streets, N.W.
Washington, D.C. 20405
ATTN: Clerk of the Board

SUBPART 5333.2--DISPUTES AND APPEALS

5333.207 Contractor claim certification. If a contractor submits an uncertified claim exceeding \$50,000 the contracting officer shall notify the contractor, in writing, of its failure to certify as required by the Contract Disputes Act (41 U.S.C. § 601 et seq). The notice should state that a final decision will not be issued until the claim is certified.

5333.211 Contracting officer's decision.

(a) Except as provided in 5333.211(b), the contracting officer shall refer proposed final decisions, with a complete contract file, to AFMCLC/JAB, Wright Patterson AFB, Ohio 45433, for review before sending the decision to the contractor.

(b) Final decisions on claims of \$50,000 or less, and on terminations for default with estimated excess procurement costs of \$50,000 or less, do not require AFMCLC/JAB review, provided the local Staff Judge Advocate has reviewed and concurs with the final decision. However, any proposed final decision, regardless of dollar value, may be sent to AFMCLC/JAB for review if either the contracting officer or the local Staff Judge Advocate determines that AFMCLC/JAB review is desirable.

(c) Telephone coordination of final decisions with AFMCLC/JAB is permitted when there is a genuine need for expedited review and when the case is simple, non-controversial and unlikely to be appealed. Both the contracting officer and the local Staff Judge Advocate should be on the line to discuss the case with AFMCLC/JAB.

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5333.290 Appeals.**(a) Appeals to the Armed Services Board of Contract Appeals (ASBCA).**

(1) The Staff Judge Advocate, HQ AFMC, represents the Air Force before the ASBCA and has delegated this authority to the Director of Contract Appeals, Air Force Materiel Command Contract Law Center (AFMCLC/JAB). Contracting officers shall send a copy of any notice of an appeal to the ASBCA to AFMCLC/JAB with the envelope in which the notice was received. If the contractor files an appeal with the contracting officer instead of the ASBCA, the contracting officer shall immediately note the date on which the appeal was received and forward the appeal to the ASBCA along with the envelope in which the appeal was sent, and copies of both shall be sent to AFMCLC/JAB.

(2) Upon learning of an appeal to the ASBCA, the contracting officer shall comply with Rule 4 of the ASBCA Rules (see DFARS Appendix A, Part 2). In assembling the file of documents under Rule 4 (i.e., Rule 4 file), the contracting officer shall not include any legal opinions or intragovernmental or intergovernmental documents of the types described in AFI 37-131 "Freedom of Information Act," AFI 37-132 "Privacy Act" and DFARS Subpart 224.2, without having first obtained concurrence of AFMCLC/JAB. The contracting officer shall transmit any questions concerning whether or not a particular document should be included in the Rule 4 file to AFMCLC/JAB for resolution prior to completing and forwarding the Rule 4 file. In assembling the Rule 4 file, the contracting officer shall separately tab and index each document. Prior to forwarding the Rule 4 file to the ASBCA (Recorder), the contractor, and AFMCLC/JAB, the contracting officer shall submit the file to the local Staff Judge Advocate for review and approval to assure completeness and to prevent accidental disclosure of privileged material. Thereafter, all three copies may be mailed concurrently. Contractors or their representatives shall not be given access to government files or documents, other than the Rule 4 file, without specific approval of the assigned Air Force trial attorney.

(3) While an appeal is pending, the contracting officer shall render all assistance requested by the assigned Air Force trial attorney including, but not limited to, locating and arranging for the presence of all potential Government witnesses, and marshalling Government records and other required physical evidence for conferences and hearings necessary to defend or otherwise dispose of an appeal.

(b) Actions in the United States Claims Court. If the contracting officer receives notice that an action has been filed

in the United States Claims Court, the contracting officer shall notify the local Staff Judge Advocate. The contracting officer shall assist the Staff Judge Advocate in preparing the litigation report. The contracting officer shall send AFMCLC/JAB a copy of all notices of appeal to the United States Claims Court. Thereafter, the contracting officer shall give assistance as requested by HQ USAF/JACL.